

EXHIBIT 4

EXHIBIT 4

CERTIFIED
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Carson CityUNITED STATES DISTRICT COURT
DISTRICT OF NEVADA - RENO DIVISION

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PAMELA D. LONGONI, individually,
and as Guardian Ad Litem for LACEY
LONGONI, and JEAN M. GAGNON,Case No.
3:10-CV-00297-LRH- (VPC)

Plaintiffs,

vs.

GMAC MORTGAGE, LLC, a Delaware
Limited Liability Company, et al.,

Defendants.

DEPOSITION OF
MOST KNOWLEDGEABLE WITNESS ON
BEHALF OF GMAC MORTGAGE, LLC

JUAN AGUIRRE

September 1, 2011

Reno, Nevada

REPORTED BY: DEBORA L. CECERE NV CCR, #324, RPR

JOB NO. 143998



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1 Number 1 for identification to this deposition.

2 (Exhibit Number 1 was marked for
3 identification.)

4 BY MR. BEKO:

5 Q And ask you whether or not you recognize that,
6 what's depicted in that document.

7 A I haven't seen the notice itself.

8 Q You haven't seen that before?

9 A Not the notice, no.

10 Q Okay. We'll come back to it in a little bit.

11 Is it your understanding, sir, that you are here
12 today as a, a designated appointee under the Federal Rules
13 as the person most knowledgeable with regard to General
14 Motors or GMAC Mortgage, LLC?

15 A Yes.

16 Q All right. Now, my understanding from your
17 counsel is that you also occupy that same position and
18 title with regard to the additional defendant in this case,
19 Residential Funding Company, LLC.

20 Is that your understanding as well?

21 A Yes.

22 Q Okay. We'll come back to that exhibit here in a
23 little bit.

24 What's your current address, sir?

25 A My work address?

1 Q Sure.

2 A 2711 North Haskell, Suite 900, Dallas, Texas
3 750 -- 75204. Sorry.

4 Q All right. You indicated that you've been
5 deposed approximately 25 times in the past; is that
6 correct?

7 A Correct.

8 Q Okay. I'm going to explain to you a few things
9 about this deposition process so that you and I don't have
10 any misunderstanding about the nature of our proceeding.
11 Okay?

12 You understand you've been placed under oath by
13 the court reporter that's seated to my left, and that the
14 oath that she administered to you is the same oath you'd
15 receive if you were testifying in a court of law before a
16 judge and a jury.

17 Do you understand that?

18 A Yes.

19 Q Do you understand that oath carries with it the
20 penalties for perjury?

21 A Yes.

22 Q Do you understand that perjury is a felony in
23 the State of Nevada?

24 A Now I do.

25 Q During the course of the deposition I'm simply

1 Q At the Bates page 8, there's another individual
2 by the name of Sandra Guevara, G-U-E-V-A-R-A.

3 Do you know that person?

4 A I do not.

5 Q There's also, in the next entry it looks like
6 Joselita Aquisay, A-Q-U-I-S-A-Y.

7 Do you know that person?

8 A I do not.

9 Q The Bates page 11, there is a Connie Canada.
10 Do you know who that person is?

11 A I do not.

12 Q Okay. Showing you what's marked as Exhibit
13 Number 5 for identification.

14 (Exhibit Number 5 was marked for
15 identification.)

16 THE WITNESS: Okay. Thank you.

17 BY MR. BEKO:

18 Q Do you recognize this document?

19 A Yes, I do.

20 Q And what is Exhibit 5?

21 A This is the payment history and note history.
22 Also known as the history of the account.

23 Q Okay. Where, where is this information? This
24 appears to be a computer-generated document.

25 A Correct.

1 Q Where is the information that was used to create
2 this document? Where is it stored?

3 A This comes from our MortgageServ, Fiserv
4 system --

5 Q Okay.

6 A -- that we talked about earlier.

7 Q Okay.

8 A Um-hum.

9 Q So when you go in, and like you said you did in
10 preparing for this deposition, that you went in and looked
11 at the Fiserv program, is this what you saw in there?

12 A This is the printout. But this information is
13 in that system itself, yes.

14 Q So when you see it in the system, it doesn't
15 look like this?

16 A Not exactly like this. Not with the heading,
17 with a name like this, and this breakdown here on the
18 principal. But all the entries are the same.

19 Q Okay.

20 A Yeah.

21 Q While we're here, I'm just going to ask you some
22 general questions about this.

23 A Okay.

24 Q This contains that same number, that 7440353498.
25 That's the same loan number as on the other document,

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1 Residential Funding Corporation?

2 A To my knowledge, yes.

3 Q All right. What is it?

4 A Residential Funding Corporation -- I don't know
5 how exactly to explain it. All I know is that at one point
6 they owned loans and were the investor of loans. That's
7 all I know --

8 Q All right.

9 A -- regarding that.

10 Q Do you know, is it a corporation?

11 A I don't know if it's a corporation or what it
12 is. No, I do not.

13 Q Do you know where it's located?

14 A The last time I remember seeing an address was
15 in Minnesota.

16 Q Now, there's also a name that's frequently used
17 that I've seen in lots of documents called Residential
18 Funding Company, LLC.

19 A Okay.

20 Q Do you know -- what do you know about that
21 company?

22 A I don't know about Residential Funding Company.

23 Q Do you know what the difference is between
24 Residential Funding Corporation and Residential Funding
25 Company, LLC?

1 A No.

2 Q Do you -- you don't even know whether they're
3 two different companies or if they're in any way related or
4 anything at all; is that correct?

5 A Correct. I don't know if they're related at
6 all, no.

7 Q Okay. All you know, I guess, as I understand
8 it, is that what you believe to be Residential Funding is
9 located somewhere in Minnesota and that they own certain
10 loans?

11 A Correct.

12 Q Do you know about a company -- well, let me ask
13 you first.

14 As far as Residential Funding Corporation, do
15 you know what its relationship to GMAC is?

16 A Yes.

17 Q What is its relationship to GMAC?

18 A Relationship -- regarding this loan, is what I'm
19 answering to. Is that what you mean?

20 Q No. No. What is its -- is it in any way
21 related to General Motors -- GMAC Mortgage, LLC?

22 In other words, is it owned -- does one of these
23 companies own the other company, does one of the companies
24 have some interest in it?

25 Do you know anything at all about the

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1 same page here.

2 A Okay.

3 Q When you say Residential Funding, you don't know
4 if you're really referring to Residential Funding Company,
5 LLC, or Residential Funding Corporation, correct?

6 A I'm referring to Residential Funding Corporation
7 when I'm talking about RFC.

8 Q Okay. All right. And to your knowledge,
9 Residential Funding Corporation still is in existence
10 today?

11 A That is my understanding.

12 Q All right. You started to explain to me what
13 you thought Residential Funding -- and I'm just going to
14 say -- call it RFC from this point forward.

15 A Okay.

16 Q And you're always going to be talking about
17 Residential Funding Corporation, correct?

18 A Correct.

19 Q Okay. What is RFC's relationship to GMAC as far
20 as this loan is concerned?

21 A Regarding this loan, we are the subservicer. We
22 service on their behalf. They are the master servicer to
23 this loan, and we have been designated as the subservicer
24 to service the loan for them.

25 Q Okay. Let me see if I am following you. GMAC

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1 is a servicer for this loan, and the actual servicer was
2 RFC?

3 MR. BASHFORD: Objection.

4 THE WITNESS: The master servicer is RFC.

5 BY MR. BEKO:

6 Q Right.

7 A And we, meaning GMAC, are the subservicers to
8 this loan, correct.

9 Q Okay. So, you recall the testimony before about
10 GMAC not actually owning any of the loans, instead it was
11 simply contracting with the owner to provide servicing
12 services for that loan.

13 Do you recall that testimony?

14 A Yes.

15 Q Okay. If I understand what you're saying to me
16 now, is, is that GMAC did not contract directly with the
17 owner of the loan, but instead GMAC has a contractual
18 arrangement with RFC that it's going to perform RFC's
19 servicing obligations on behalf of RFC, and RFC had some
20 kind of agreement with the owner that it was supposed to be
21 the servicer. Is that right?

22 A My understanding is, yes, we do have an
23 agreement with -- I think it's in the exhibits -- the
24 Servicer Guide to service the loans for RFC, who is the
25 master servicer for the owner, or the investor, as they

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1 that's how I have to the best of my knowledge.

2 Q In your information, all the information you
3 have as to who held and who owned this note and the
4 mortgage came from this paralegal Rosemary?

5 A Correct.

6 Q And upon belief in the accuracy of what she told
7 you, you then verified these answers?

8 A Correct.

9 Q Okay. So as we look here, we see something
10 happening, apparently -- if one were to read the accuracy,
11 read this accurately, 1/5 of '06, Residential Funding
12 Company, LLC, as trustee, gets beneficial rights from EC on
13 1/5/06. And then on 10/8 of '06 Residential Funding Co.,
14 LLC, but not as trustee, gets transfer of servicing rights
15 from EC.

16 Do you see that?

17 A I do.

18 Q Do you have any idea, sir, what the difference
19 is between Residential Funding Company, LLC, as trustee,
20 and Residential Funding Co. as LLC?

21 A Not right now, no.

22 Q All right. Do you have any idea what
23 "beneficial rights" mean?

24 A My understanding at that point was that the
25 rights to the loans were transferred from EquiFirst over to

1 RFC.

2 Q Okay. Loan, meaning the promissory note?

3 A The promissory note and the whole loan itself
4 was transferred over to RFC.

5 Q Okay. And what, what -- would you define for me
6 what you mean as "the whole loan itself"?

7 What does that encompass?

8 A Well, the rights to the note itself. The rights
9 to owning the note at that point. They're the new
10 beneficiary or the new owner of the note, yes.

11 Q Okay. Do you understand -- is there any
12 difference in your mind, sir, between the owner of the note
13 and the beneficiary of the note?

14 MR. BASHFORD: Objection.

15 THE WITNESS: No. To me, the beneficiary and
16 the owner of the note, to me, it means that they own the
17 note, that they hold the note, yes.

18 BY MR. BEKO:

19 Q Okay. Do you understand there to be any legal
20 significance of the word "holder" of a note?

21 MR. BASHFORD: Objection.

22 BY MR. BEKO:

23 Q Do you have any knowledge of the legal
24 significance of the word "holder" of the note?

25 A I'm not an attorney, legal language. Yeah.

1 A Correct.

2 Q Have you seen, at any time in your career with
3 these companies, the original promissory note?

4 A No.

5 Q Do you have any idea where that original
6 promissory note is today?

7 A Nope. Sorry. No.

8 Q That's okay. Thank you.

9 Have you ever seen a copy of that promissory
10 note?

11 A The one that we had a copy of or what's out
12 there today?

13 Q Let's talk about -- if there's something
14 different, let's talk about -- it's a good answer.

15 Let's talk first about the one you say "we had."
16 And when you say "we," who is "we"?

17 A Well, a copy of it, as you stated. I mean, we,
18 GMAC, had a copy imaged in our system of the promissory
19 note. That's in the Looking Glass, as I stated earlier.

20 Q Okay.

21 MR. BEKO: And I'm going to go ahead and mark as
22 an exhibit this document.

23 (Exhibit Number 8 was marked for
24 identification.)

25 ///

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1 A I don't know if it's the back side. . . Again, I
2 think we discussed that earlier, that to me the images are
3 just showing, you know, in my imaging system as one page.

4 Q Okay. But so we're clear --

5 A Okay.

6 Q -- when you see this document in your imaging
7 system, it's the only place that you know that you can go
8 to, to find this document, correct?

9 A Yes.

10 Q You couldn't walk down the hall, open the door
11 and go out and pull it out and look at the actual hard
12 copy.

13 You don't know that that document exists
14 anywhere where you can go do that, correct?

15 A Not in my office. I think we discussed earlier
16 that it's kept with the custodian in, in their office or
17 wherever they keep it.

18 Q And who is the custodian?

19 A I think we discussed it was RFC.

20 Q Okay. So you think that it's possible that you
21 could go to RFC's office -- and that's in Minnesota, right?

22 A Correct.

23 Q And you think you could go to their office and
24 you think you could find this note, the original note, in
25 their office?

1 A If there's more to it, I don't know.

2 Q All right. Let's take a moment, sir, and talk
3 for a second about this apparent company, Residential Asset
4 Mortgage Products, Inc.

5 What do you know about that company?

6 A All I know is that they purchased the loans,
7 which happened to be also the Longoni loan along with it,
8 and they purchased the pool of loans. That's my
9 understanding.

10 Q Okay.

11 A They assumed the loans, I guess.

12 Q Do you know what Residential Asset Management
13 Products, Inc. is from the standpoint of a business entity?
14 For instance, is it a corporation, is it an LLC?

15 A Well, my understanding, per the document, it's a
16 Delaware corporation.

17 Q Okay. And do you know when it was created?

18 A No, I do not.

19 Q Do you know where its business -- where its
20 principal place of business is?

21 A No, I do not.

22 Q Have you ever been there, to any offices of
23 Residential Asset Management Products, Inc.?

24 A No, I have not.

25 Q To your knowledge, does it even have a business

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1 address anywhere?

2 A I do not know.

3 Q Do you know how many employees it has?

4 A I do not.

5 Q Have you ever heard, sir, of, of a trust known
6 as RAMPI 2005 EFC7?

7 A Yes.

8 Q What is that?

9 A My understanding is when RAMPI, or Residential
10 Asset Mortgage Products, took the loans, they put it into a
11 trust, and they are what we call the investor now. That's
12 my understanding.

13 Q So it's your understanding -- let me just ask
14 you this basic question.

15 A Sure.

16 Q Do you understand what a trust is?

17 MR. BASHFORD: Objection.

18 THE WITNESS: A trust is, to my understanding,
19 is -- and this we learned in the mortgage. There's loans
20 and there's investors, individuals who invest in those
21 loans. And -- I guess I'm going back to what a trust and a
22 trustee is with regular individuals, and U.S. Bank being
23 the trustee that oversees that trust and what's going on
24 with the loan.

25 ///

1 BY MR. BEKO:

2 Q In a legal sense, a trust is a separate legal
3 entity, like a corporation or a limited liability company.
4 It's created as a separate legal entity. And then
5 sometimes people talk about putting money or something in a
6 trust fund, which is just like an account. It doesn't
7 create a separate legal entity.

8 Do you know whether or not this RAMPI that's
9 described as a trust, or, excuse me, RAMPI 2005 EFC7, is
10 actually a separate legal entity?

11 MR. BASHFORD: Objection.

12 THE WITNESS: My understanding is it's a
13 separate entity from the Residential Asset -- sorry,
14 Mortgage Products, RAMPI. It's a totally different entity.
15 That is my understanding. Yes.

16 BY MR. BEKO:

17 Q And when was that trust formed?

18 A I don't know the exact date that I recall.

19 Q But, but that trust, to your knowledge, as the
20 person most knowledgeable with GMAC, is the owner of the,
21 of the note, the promissory note, the Longoni promissory
22 note. Is that your understanding?

23 A That's my understanding.

24 Q If you look, sir, at Exhibit Number 10 --

25 A Okay.

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1 Number 14.

2 A Okay.

3 Q Is this the document that modified the original
4 promissory note, to your knowledge?

5 A Yes.

6 Q All right. And according to this, this
7 modification occurs on the 2nd day of November, 2007,
8 correct?

9 A Sorry. My eyes are a little blurry right now.

10 Q That's okay.

11 A November 2007, effective, yes. The 2nd day,
12 correct.

13 Q All right. And at that time, November 2nd of
14 2007, Homecomings Financial, LLC, certainly was not the
15 lender because RFC bought the loan from EquiFirst, and then
16 in December of 2005 sold the loan to RAMPI.

17 A Correct.

18 Q So where this document lists Homecoming
19 Financials as the lender, they weren't the lender, were
20 they?

21 MR. BASHFORD: Objection.

22 THE WITNESS: Not on November 2nd, 2007.

23 BY MR. BEKO:

24 Q Okay. If you see the second paragraph of this
25 document, it says:

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1 Borrower acknowledges that lender is
2 the legal holder and the owner of the
3 note and security instrument, and
4 further acknowledges that if lender
5 transfers the note as amended by this
6 agreement, the transferee shall be
7 the lender as defined in the
8 agreement.

9 Correct?

10 A That's what it says, yes.

11 Q All right. Clearly in November 2nd, 2007,
12 Homecomings Financial did not -- or was not the legal
13 holder and owner of the note and security interest, were
14 they?

15 MR. BASHFORD: Objection.

16 THE WITNESS: Not November 2nd, 2007.

17 BY MR. BEKO:

18 Q Okay. To your knowledge, has anyone ever
19 questioned or raised how it is that Homecomings Financial
20 is out there modifying a note and security interest that
21 they didn't own anymore?

22 A They didn't own it, but Homecomings Financial at
23 that point was the subservicer.

24 Q Okay.

25 A So Homecomings Financial, who is now GMAC, was

1 mortgage amount is.

2 A Correct.

3 Q Modification team, explain to me how that
4 differs from the, quote/unquote, repayment plan team.

5 A A modification team is where the loan is
6 actually being modified, where the interest rates are
7 either being lowered or capping some arrears into the loan,
8 where the loan is being modified. Maybe the terms of the
9 loan are being changed. There's some modification being
10 done to the loan.

11 Q Okay.

12 A Repayment plan or -- that area is more of either
13 you're going to repay all of your debt in a certain amount
14 of time, or you make certain payments until we can see if
15 we can work some other type of loss mitigation option for
16 you.

17 Q Okay. Are all of these things that you've
18 described under the umbrella of loss mitigation?

19 A Yes.

20 Q All right. Any other, any other divisions
21 within what, I guess, you'd call loss mitigation?

22 A Areas?

23 Q Yes.

24 A Those are the only ones with regard to loss
25 mitigation. They're either a loan mod, sort sale, deed in

1 started out.

2 Q It makes good sense to me.

3 A It used to be like that in the olden days.

4 Q Seems to me if they had that in this case we
5 wouldn't be here.

6 A Let me see. That's all I can think of.

7 Q Okay.

8 A I'm sure there's more departments out there.

9 Q What is the -- what's the mediations department?
10 What do those people do?

11 A Those individuals are -- work with the
12 foreclosure department, and foreclosure loans, loans that
13 are on foreclosure that are going to be mediated prior to
14 maybe going into foreclosure, see if they can work with
15 them. They try to work some sort of modification or some
16 sort of repayment plan at the mediation itself.

17 Q Are those typically court-ordered mediations or
18 are they --

19 A My understanding, certain states are court
20 ordered and some states are voluntary.

21 Q Okay. In this case, this never went through a
22 mediation here in Nevada, did it?

23 A Not that I'm aware of.

24 Q Do you know why not?

25 A No, I do not.

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1 modified. It's considered current. They've either capped
2 their arrearage or forgave some debt or whatever they did
3 to bring the loan current at that point regarding
4 remodifying the loan. So it leaves loss mitigation.
5 There's no need for loss mitigation. It's complete. And
6 it goes back to the regular cycle.

7 Q When did it come back to loss mitigation then?

8 A My understanding is that modification, it was --
9 November of -- 2008, I think it was like November or
10 December of 2008 is when they started falling delinquent
11 again. And at that point, that's when they started seeking
12 assistance, if I'm correct.

13 Q And your knowledge about that comes only well
14 after the fact in going back and trying to look at records
15 or something; is that right?

16 A Yes.

17 Q You were not involved in any aspect of dealing
18 with the Longoni/Gagnon loan at any time until after this
19 litigation ensues; is that correct?

20 A Correct.

21 Q Okay. So any knowledge that you may have had
22 about how it was being handled or whatever comes as a
23 result of getting information from someone else?

24 A Information from someone else, and the
25 documents, correct.

1 A As stated earlier, in the Servicer Guide over
2 here, which I'm -- it's part of the production:

3 Q Okay. Let's kind of go through that.

4 A Okay.

5 Q I'm going to show you a document that's marked
6 as Exhibit Number 15.

7 A Okay.

8 (Exhibit Number 15 was marked for
9 identification.)

10 MR. BEKO: And just for the record, that is
11 Bates numbers RFC 1293 through RFC 571, although I think
12 there are some -- it's hard to tell with the Bates, but I
13 think there are some omissions.

14 BY MR. BEKO:

15 Q Do you recognize this document?

16 A Yes.

17 Q All right. Now, your testimony is that at some
18 point in time during this loan modification request from
19 the Longonis, this document, Exhibit Number 15, was what
20 was followed by loss mitigation employees of GMAC when
21 requested to modify the Longoni loan?

22 A This is a, what, the guide, yes, to working a, a
23 modification. We would follow the rules from here,
24 correct.

25 Q All right. Now, this Servicer Guide says -- it

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1 has on here "GMAC-RFC."

2 Do you see that?

3 A Yes, I do.

4 Q Do you know why -- I mean, who actually prepared
5 this?

6 A The document itself?

7 Q Yeah.

8 A I don't know the person who prepared it, but
9 just by reading the document at the bottom, it's a 2008
10 Residential Funding Corporation, all rights reserved.

11 So --

12 Q And I certainly see that.

13 A Um-hum.

14 Q But it -- what I understand was that RFC was the
15 master servicer; it was the one that was calling the shots
16 as far as the servicing was concerned. Correct?

17 A They delegated the authority to us to service
18 the loan and work the loans if modifications needed to be
19 done.

20 Q Right.

21 A Again, like I stated earlier, if there was a
22 certain level above the authority, then of course, you
23 know, we had to work up.

24 Q Right. And I think I understand what you're
25 saying.

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1 Q Gagnon?

2 A -- Mr. Gagnon maybe were qualified for a
3 different type of modification.

4 Q All right. And that's kind of what my question
5 is.

6 A Okay.

7 Q Was there some point -- let me ask you this.
8 Exhibit 15 was what we started with in 2009 as
9 far as loan modifications were concerned. That's what
10 governed the decision-making process of GMAC employees when
11 2009 started, correct?

12 A Right, when 2009 started. This started in 2008.
13 Correct.

14 Q Okay. Was this Servicer Guide, these rules,
15 guidelines, whatever, were they discontinued when HMP came
16 into place, or were they simply supplemented by HMP, being
17 an additional method or means by which to review loan
18 modification?

19 A HMP was a different method, totally different
20 modification, different guidelines that we would have to
21 follow for a different type of modification. But these
22 were not discontinued. They were still in effect.

23 Q Okay. So is it your understanding that the
24 employees of GMAC who were dealing with loan modification
25 could consider it under either the original GMAC-RFC

1 Servicer Guide, Exhibit 15, or they could do it under HMP
2 as well?

3 A Yes. We would look at both options to see what
4 would be best for the borrower.

5 Q Okay.

6 MR. BEKO: You know what? I'm sorry. I never
7 gave you the copy. And part of it is on yellow because of
8 copy machine failure.

9 BY MR. BEKO:

10 Q Do you know who -- strike that.

11 Was a decision ever made, to your knowledge,
12 that the Longonis -- or Pam Longoni could not qualify under
13 the GMAC guidelines?

14 A My understanding is that they were reviewing her
15 loan for a modification when she called in and informed us
16 of her financial difficulties. But they were reviewing.
17 That was, that's my understanding at that point.

18 And then at a certain point then they stated
19 that they were going to maybe look at a HMP modification.

20 Q And when does HMP come into play? When does it
21 take effect, the new guidelines that they --

22 A I remember HMP coming in, actually, in the world
23 back in March of 2009. And I think it was sometime in May
24 of 2009, is when we started working with the HMP
25 modifications, is what I recall.

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1 page.

2 MR. BASHFORD: Well, I'm going to object to
3 asking him questions about an incorrect e-mail chain,
4 because the first page --

5 MR. BEKO: Well, you can make whatever objection
6 you want.

7 (Exhibit Number 16 was marked for
8 identification.)

9 BY MR. BEKO:

10 Q Mr. Aguirre, I'm showing you what's been marked
11 Exhibit Number 16 for identification.

12 A Okay.

13 MR. BASHFORD: All right. I continue my
14 objection. This is an incomplete e-mail.

15 MR. BEKO: Okay.

16 (Exhibit Number 17 was marked for
17 identification.)

18 BY MR. BEKO:

19 Q Again, directing your attention to this, this
20 e-mail from Mr. Stephenson indicating where he saw an
21 e-mail stating that the mod had been approved yesterday but
22 that's all he knows, do you see that?

23 A I do see that.

24 Q Who wrote that e-mail that approved the mod on
25 June 29th?

1 A I don't know.

2 Q Have you ever seen that e-mail?

3 A No, I have not.

4 Q Have you ever looked for it?

5 A I have not.

6 Q Do you know, has anybody ever looked for it?

7 A I don't know.

8 Q Do you know whether or not e-mail communications
9 from your GMAC employees are kept by GMAC?

10 A They are not kept by GMAC. An e-mail, just like
11 any e-mail from Outlook, it can be saved or it can be
12 deleted by the individual.

13 Q Is what their e-mail system is, is Outlook?

14 A That's what we use, or GMAC uses.
15 (Exhibit Number 18 was marked for
16 identification.)

17 BY MR. BEKO:

18 Q Showing you what's marked as Exhibit Number 18
19 for identification.

20 MR. BASHFORD: Are we on 18?

21 THE WITNESS: No. This should be 17.

22 MR. BEKO: I already marked a different one 17.

23 THE WITNESS: Okay.

24 BY MR. BEKO:

25 Q Do you recognize this document?

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1 BY MR. BEKO:

2 Q Okay.

3 A -- that 27 is here.

4 Q To your knowledge, has anyone ever made an
5 attempt to locate that e-mail?

6 A To my knowledge, I don't know of anyone.

7 Q Okay. Were you ever asked to assemble records
8 responsive to the requests for production of documents?

9 A No.

10 Q Who was responsible for assembling the documents
11 in response to the request for production?

12 A I cannot give a specific name. The only name
13 that might pop up would be probably Rosemary Meeker, since
14 she's in the legal department and would assist with these
15 kind of requests.

16 Q Was there ever, to your knowledge, any hold
17 placed of any type of the e-mail account of Nate Stephenson
18 or other employees who worked on the Longoni matter?

19 A Hold on e-mail accounts? Can you explain what
20 you mean by hold?

21 Q Sure. Was there ever any attempt to capture
22 their e-mail communications, these people that worked,
23 especially Nate Stephenson, on this loan modification?

24 Was there ever any attempt to capture their
25 e-mail communications --

1 MR. BASHFORD: Objection.

2 BY MR. BEKO:

3 Q -- so they wouldn't be lost?

4 A That, I don't know.

5 Q You didn't undertake any effort to try to
6 capture those and preserve them?

7 A No. I wouldn't do that, no.

8 Q And no one ever asked you to do that?

9 A No.

10 Q Were you aware before you came here today that
11 there was an e-mail communication from Nate Stephenson
12 saying that their mod had been approved?

13 A I had read some e-mail communications which were
14 in the documents regarding this e-mail, if I'm correct, in
15 there somewhere, I think, where he stated that there was a
16 modification approved.

17 Q So just within the last week or so, since last
18 week, is when you first saw that e-mail noting that the
19 modification had been approved?

20 A The first time I saw the e-mail was last week,
21 yes.

22 Q Okay. Any idea what happened? Assuming that
23 Mr. Stephenson is being truthful in his report on this
24 e-mail communication to Ms. Longoni, do you have any idea
25 what happened to that approved modification?

1 employees how to handle loan modifications, et cetera,
2 under the Servicer Guide, Exhibit 15.

3 A Correct.

4 Q Okay. Exhibit 21 is a training tool to instruct
5 employees how to handle home modification under the HMP
6 program, correct?

7 A Correct.

8 Q Is there a document that describes the HMP
9 program that is similar to Exhibit Number 15?

10 A I know there's another document regarding the
11 HMP program, which is also with the documents in discovery,
12 which I saw when I was reviewing. Not that thick as the
13 servicer guidelines, but there is another document.

14 (Exhibit Number 22 was marked for
15 identification.)

16 BY MR. BEKO:

17 Q Showing you what's marked as Exhibit Number 22
18 for identification.

19 MR. BEKO: Counsel, again, this is GMAC 02-193
20 through 236.

21 BY MR. BEKO:

22 Q What, what is Exhibit Number 22?

23 A Exhibit 22 is -- it's actually a, a set of
24 checklists on how to go about doing certain modifications.
25 Like we have a, a trial modification, permanent

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1 modification approval. It's a checklist on how to go into
2 our system and what needs to be requested, a step-by-step
3 checklist for the individuals working the modifications.

4 Q So this would apply to the, both the, I guess,
5 the GMAC type refinance as reflected in Exhibit 15 as well
6 as the HMP as well? Is that right?

7 A Not refinance, but loan modification.

8 Q Loan modification.

9 A Yes. And the HMP. Also there's a checklist
10 here for the HMP as well included.

11 Q Right. Okay. So tell me how, how do these two
12 interplay with one another, Exhibit 22 and 15?

13 A Well, this is the checklist. This is how we go
14 into our system and how to go into screens and see if they
15 qualify for certain programs. It's part of the servicing
16 of the loan, which would fall into part of the servicing
17 guides and how we should service loans.

18 Q Okay. That is not a description of the HMP
19 program like Exhibit 15 is for the GMAC traditional?

20 A No, no. This is just a checklist on how to
21 conduct certain modifications. There's several different
22 checklists in here. There's not one checklist. There's
23 actually several, like you have the trial permanent
24 modification checklist, and if you keep going, special
25 servicing checklist.

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1 A Yes. That would be a non-HMP modification,
2 which would be traditional. Irregular modification on a
3 loan, correct.

4 Q Was there anything other than traditional
5 modification that was being used by GMAC before HMP came
6 along?

7 A In terms of modifications, it was a -- we had
8 what was called a trial modification, which was kind of
9 sort of like a repayment plan where there was maybe three
10 payments to see if the borrower can afford something while
11 we looked at the traditional modification. But not --
12 until HMP came along, then we started doing HMP
13 modifications.

14 Q Along with the traditional one, correct?

15 A We were also doing -- at the same time, yes.

16 Q Okay. And there was nothing, as far as you
17 know, that required any of your employees to choose one
18 plan over the other?

19 A Well, what we do is we look at the finances, the
20 hardship, what the borrower can afford. If they don't fall
21 within a traditional modification, of course, at that point
22 when HMP came around it was a little bit more -- what's the
23 word I'm trying to use -- be aggressive, or we can change
24 more.

25 Q More liberal?

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1 A More liberal. We can reduce the interest more,
2 maybe extend the terms a little bit more.

3 Q All right.

4 A So if they couldn't afford it in the
5 traditional, we would then, by all means, try and see if
6 they would fit into a HMP modification.

7 Q All right. And was there some benefit to GMAC
8 financially if they modified or agreed to a modification
9 for a homeowner?

10 In other words, did GMAC ever receive any kind
11 of compensation, federal or otherwise, for putting people
12 into these programs?

13 A From reading my documents, yes, there were
14 incentives to the servicer when they were -- when there was
15 a successful completed modification, both in a traditional
16 and on the HMP as well.

17 Q All right. And how about compensation from the
18 federal government? Did, did, did GMAC or the investor, to
19 your knowledge, ever receive any type of federal funds in
20 response to any -- and especially with regard to the
21 Longoni loan -- did they ever receive any kind of
22 compensation, payment, anything?

23 A From the government?

24 Q Um-hum.

25 A I wouldn't know. Not that I'm aware of. But

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1 says, you know:

2 Understand the background of the
3 Making Home Affordable Program, Obama
4 Mod HMP.

5 Is it your understanding the Obama Mod and HMP
6 is the same thing?

7 A Yes.

8 Q Okay. Now, this shows that it has a date on it
9 of 3/8 of '10.

10 A Correct.

11 Q Is this a training material didn't come about
12 until March of '10?

13 A Yes, because that's when the program was
14 starting to -- well, I'm sorry. That's 2010.

15 March of 2009 is when the program started
16 rolling out. So I don't know if this was a revised copy or
17 not. It doesn't say revised.

18 MR. BASHFORD: I'll make a copy now.

19 (Whereupon a recess was taken.)

20 MR. BEKO: Back on the record.

21 (Exhibit Number 26 was marked for
22 identification.)

23 BY MR. BEKO:

24 Q Showing you what's marked as Exhibit Number 26
25 for identification.

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1 contribution of 1600.

2 Is that correct?

3 A That's correct.

4 Q All right.

5 Upon successful completion of the
6 trial the estimated mod terms will be
7 mod type.

8 What does that mean? Cap?

9 A Cap, they're going to capitalize the
10 delinquency. The remaining balance would be capped onto
11 the loan.

12 Q Okay.

13 Interest rate type. ARM to ARM.

14 A It was an adjustable rate mortgage, and it was
15 going to be kept as an adjustable rate mortgage if it went
16 to modification.

17 Q Okay. The interest rate would be 3.25?

18 A Correct.

19 Q Index rate was 3.9?

20 A Correct.

21 Q What is an index rate 3.9?

22 A I'll be honest with you, index rate and margin
23 rates, those are two things that I don't know the
24 calculations of those.

25 Q Okay. ARM freeze meaning it's a five-year

1 60 days. No guarantees... I tried to
2 update DTI calculator but borrower
3 did not know her gross income. Said
4 she would call back tomorrow because
5 she had to go to work.

6 Q All right. Apparently something else is going
7 on down there. I don't know if it's a further extension.
8 We see a 1025 -- 10:25:

9 Do you know what those numbers relate to?

10 A No. I'm not going to guess. No, I don't.

11 Q All right. Do you see this? It says:

12 Pay cuts start 9/28. Ongoing.

13 Tell me what that note means to you.

14 A That's a continuation from the one above it,
15 where it says reason for default. SPS. I don't know what
16 the SPS means. Had to get another job and took a pay cut.
17 Start on 9/2008 ongoing.

18 I don't know what the MI stands for, but:

19 \$1800 a month. Advised foreclosure
20 sale date on hold. Late charges and
21 credit reporting continues.

22 H. Casas.

23 I don't know who that is.

24 Q Let's see if we can figure that out.

25 A Okay.

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1 Q Henry Casas?

2 A Correct.

3 Q Okay. The following day you go down and it --
4 on 7/10/09?

5 A Um-hum.

6 Q 2928. It says:

7 Repay plan cancelled automatic.

8 A Okay.

9 Q And explain to me what that is.

10 A There was four payment plans to that repayment
11 plan, the \$1600, March 30th, April 30th, June 30th -- wait.
12 Sorry. March, April, May, June 30th was that balloon
13 payment that we talked about. That payment was not made so
14 instead of manually like the last one we saw where someone
15 manually cancelled it, the system automatically cancelled
16 it when we don't receive that full amount.

17 Q Okay. So that would have actually been -- that
18 would have been effective as of June 1st.

19 A Which one?

20 Q The failure to make the payment would have been
21 on June 1st?

22 A March 30th. April, May, June 30th was when her
23 final payment was due. So July 1st would have been
24 considered late. So the payment plan was cancelled after
25 that payment wasn't received, the June 30th balloon payment

1 Obama Workout Package provided to
2 date. 30 days to sale. No contact
3 letter.

4 A I see that it says 30 days to sale. But I don't
5 see it in the body of the letter.

6 Q You can see it at the bottom?

7 A I see it at the bottom. 30 days to sale.

8 Q Okay.

9 A Exactly.

10 Q Were you involved -- strike that.

11 Did you ever know that there was an effort made
12 to try to get this property back after the sale?

13 A There was an understanding -- I have an
14 understanding that they were trying to get the property
15 back, yes.

16 Q Why?

17 A I don't know. All I know is that they were
18 trying to get the property back at one point.

19 Q Were you at involved in the negotiation process
20 with the purchaser where GMAC was trying to get the
21 property back?

22 A No.

23 Q Did anybody ever tell you that GMAC made a
24 mistake with regard to foreclosing on this property?

25 MR. BASHFORD: Objection to the extent it calls

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1 for privileged information.

2 BY MR. ADAMS:

3 Q Did anybody ever -- other than an attorney --
4 tell you that GMAC made a mistake in foreclosing on this
5 property?

6 A No.

7 Q Who did you talk with about this attempt to get
8 the property back?

9 A I wasn't talking -- it was just in conversation.
10 Ms. DeSilva mentioned something at one time. And --

11 MR. BASHFORD: Objection.

12 BY MR. BEKO:

13 Q Okay. She's an attorney, right?

14 A Yes.

15 Q I don't know want you to tell me about what an
16 attorney for GMAC told you. If you had a discussion with
17 anyone other than an attorney about the attempt to get the
18 property back, that's what I'm looking for.

19 A Rosemary Meeker. She's not an attorney.

20 Q Okay. What did Rosemary Meeker tell you?

21 MR. BASHFORD: Objection.

22 THE WITNESS: That at one point that they were
23 trying to get the property back. That's what I was
24 informed.

25 ///

1 STATE OF NEVADA)
2) ss.
3 WASHOE COUNTY)

4 I, DEBORA L. CECERE, a Certified Court Reporter, State
5 of Nevada, do hereby certify:

6 That on Thursday, the 1st day of September, 2011, at
7 the hour of 8:57 A.M. Of said day, at 99 West Arroyo
8 Street, Reno, Nevada, personally appeared JUAN AGUIRRE, who
9 was duly sworn by me to testify the truth, the whole truth,
10 and nothing but the truth, and thereupon was deposed in the
11 matter entitled herein;

12 That I am not a relative, employee or independent
13 contractor of counsel to any of the parties; or a relative,
14 employee or independent contractor of the parties involved
15 in the proceeding, or a person financially interested in
16 the proceeding;

17 That said deposition was taken in verbatim stenotype
18 notes by me, a Certified Court Reporter, and thereafter
19 transcribed into typewriting as herein appears;

20 That the foregoing transcript, consisting of pages 1
21 through 277 is a full, true and correct transcription of my
22 stenotype notes of said deposition.

23 DATED: At Reno, Nevada this 12th day of September,
24 2011.

25 
DEBORA L. CECERE, NV CCR #324, CA CSR #8821